

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JACKY CLAY REYNOLDS, #1314728

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 4:21cv239

**ORDER OF DISMISSAL**

This case was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation on August 23, 2021, concluding that Petitioner's case should be dismissed as successive and for failing to pay the filing fee (Dkt. # 17). The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. On September 15, 2021, Petitioner filed objections to the Report. (Dkt. #19).

In his objections, Petitioner complains about his inability to pay the \$5.00 filing fee. The Court initially notes that Petitioner was given numerous opportunities since March 29, 2021, in which to pay the filing fee. (Dkt. ##4, 6, 8, 12). The record reflects that, after the Report and Recommendation was issued, the \$5.00 filing fee was paid on September 8, 2021; thus, the recommendation to dismiss for failure to prosecute is now moot.

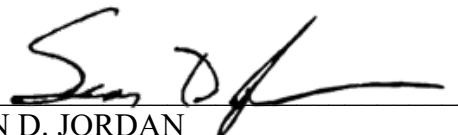
More importantly, however, the Magistrate Judge recommended dismissal of this case because it is a successive petition, and the Court has no jurisdiction to consider successive petitions. *See In re Epps*, 127 F.3d 364 (5<sup>th</sup> Cir. 1997). In his objections, Petitioner fails to show he has permission from the Fifth Circuit to file a successive petition. Accordingly, the Court simply does

not have jurisdiction to consider this case. *Id.*

After conducting a *de novo* review of the objections raised by Petitioner, the Court finds they are without merit. For these reasons, the Court concludes that the findings and conclusions of the Magistrate Judge are correct **to the extent that Petitioner filed a successive petition without permission from the Fifth Circuit**, and adopts the same as the findings and conclusions of the Court.

Accordingly, it is **ORDERED** the petition for writ of habeas corpus (Dkt. # 1) is **DISMISSED** without prejudice as successive, subject to Petitioner gaining permission from the Fifth Circuit to file a successive petition. It is further **ORDERED** all motions by either party not previously ruled upon are **DENIED**.

**So ORDERED and SIGNED this 4th day of October, 2021.**

  
SEAN D. JORDAN  
UNITED STATES DISTRICT JUDGE